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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/675,081
Filing Date: September 30, 2003
Appellant(s): KARAOGUZ ET AL.

Ognyan I. Beremski
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 21, 2009 appealing from the Office action mailed January 14, 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,240,555 B1

Shoff et al.

05-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 through 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Shoff et al., United States Patent (6,240,555 B1) hereinafter "Shoff".

With respect to Claim 1, Shoff teaches a method for providing access to information related to a broadcast television program (generally shown in Figs. 2, 6, 7, and 9), the method comprising:

delivering, via a single communication path, the broadcast television program along with at least one synchronized functionality associated with the broadcast television program ("target resource contains digital data which supports interactive functionality in conjunction with the associated video content program" and that defines parameters such as display layout or timing information to synchronize the presentation, as described in Col. 9 Line 66—Col. 10 Line 17; with further reference to "the digital data is packaged with the video stream and transmitted as one signal from the headend", as described in Col. 10 Lines 17-24 and Network 32 of Fig. 2), the broadcast

television program and said at least one synchronized functionality being of the same format and for display on a television screen within a home (transmission of digital data in vertical blank interval (VBI) between successive frames of the video, as disclosed in Col. 2 Lines 32-52 and Figs. 1, 8a-8c; with further reference to Col. 12 Lines 24-38), said at least one synchronized functionality comprising at least one user-selectable option ("Display Icon Indicating Interactive" at Step 162, which is displayed based on a determination of the existence of interactive data at Step 152 from EPG, as described in Col. 8 Line 62—Col. 9 Line 40), and wherein said at least one synchronized functionality originates from the same broadcast provider location as the broadcast television program (Video Programs 40, Program Information 46, and Supplemental Content 54 distributed from Headend 22 of Fig. 2, as described in Col. 4 Line 42—Col. 5 Line 60; with further reference to Fig. 9 showing the method of authoring an interactive entertainment program, as described in Col. 12 Line 39-67);

receiving an input from a user that selects at least a portion of said at least one synchronized functionality associated with at least a portion of the broadcast television program, during said delivery ("Display Icon Indicating Interactive" at Step 162 is available for selection by the user at Step 164 of Fig. 6, as described in Col. 9 Line 30—Col. 10 Line 17 and shown in Fig. 8a); and

in response to said received input, performing at least a portion of said at least one synchronized functionality associated with said at least a portion of the broadcast television program, at least in part outside said home (Steps 170-174 of Fig. 6 describing the processes of activating the target resource selected by the user, as

disclosed in Col. 9 Line 54—Col. 10 Line 24; where the target resource can exist at the headend, as described in Col. 10 Lines 28-30).

With respect to Claim 2, Shoff teaches the method according to Claim 1 comprising associating said at least one synchronized functionality with the broadcast television program (digital data including “timing information” included with broadcast of video data, as described in Col. 10 Lines 7-24, Lines 34-58; with further reference to Step 245 of Fig. 9, as described in Col. 12 Lines 39-47).

With respect to Claim 3, Shoff teaches the method according to Claim 1 comprising notifying said user of said at least one synchronized functionality corresponding to the broadcast television program (Icon 204 indicates the existence of supplemental content and is displayed to the user during step 162 of Fig. 6, as described in Col. 9 Lines 30-53 and shown in Fig. 8a).

With respect to Claim 4, Shoff teaches the method according to Claim 1 comprising broadcasting an indication of said at least one synchronized functionality along with the broadcast television program (“indication that program is interactive compatible and that there is supplemental content for the program”, as dictated by EPG Data Field 58, as described in Col. 8 Line 62—Col. 9 Line 19).

With respect to Claim 5, Shoff teaches the method according to Claim 1 wherein said input is a code representative of said function (target resources activated in response to a view selecting Icon 204 can represent file locations at Headend 22 or HTML documents, as described in Col. 9 Line 54—Col. 10 Lines 24, 28-30; with further reference to Col. 5 Lines 12-60).

With respect to Claim 6, Shoff teaches the method according to Claim 1 wherein said input is generated from at least one of a remote control, a keyboard, a scanning device and an audio processing device (Remote Control Unit 30 of Fig. 2, as described in Col. 4 Lines 22-34; with further reference to Col. 9 Lines 41-59).

With respect to Claim 7, Shoff teaches the method according to Claim 1 comprising generating supplemental information related to the broadcast television program in response to said received input (Steps 178-180 of Fig. 7 describing the extraction and configuration of digital data for presentation, as described in Col. 10 Lines 34-50).

With respect to Claim 8, Shoff teaches the method according to Claim 7 comprising presenting said supplemental information to said user (Step 182 of Fig. 7 describing the display of supplemental content according to the display layout and synchronized to the program according to the timing information, as described in Col. 10 Line 50—Col. 12 Line 38 and shown in Figs. 8a-8c).

With respect to Claim 9, Shoff teaches the method according to Claim 7 comprising presenting said supplemental information to said user concurrently with said delivery of the broadcast television program (Program 210 of Figs. 8a-8c displayed with supplemental content, as described in Col. 10 Line 59—Col. 12 Line 38).

With respect to Claim 10, Shoff teaches the method according to Claim 1 comprising displaying information related to said performance of said at least a portion of said at least one synchronized functionality (Viewer Computing Unit 24 runs electronic program guide (EPG) that displays various listings of programs including Data Field 58 that indicates the existence and location of interactive content, as described Col. 4 Lines 35-42, Col. 5 Line 61—Col. 6 Line 22).

With respect to Claim 11, Shoff teaches a machine-readable storage having stored thereon, a computer program having at least one code section for providing access to information related to a broadcast television program, the at least one code section being executable by a machine for causing the machine to perform the method of Claim 1 (Program Memory 96 of viewer computing unit shown in Fig. 5, as described in Col. 8 Lines 4-51; with further reference to Claim 1 addressed above).

Claim 12 is met as previously discussed with respect to the machine-readable storage of Claim 11 causing a machine to perform the method of Claim 2.

Claim 13 is met as previously discussed with respect to the machine-readable storage of Claim 11 causing a machine to perform the method of Claim 3.

Claim 14 is met as previously discussed with respect to the machine-readable storage of Claim 11 causing a machine to perform the method of Claim 4.

Claim 15 is met as previously discussed with respect to the machine-readable storage of Claim 11 causing a machine to perform the method of Claim 5.

Claim 16 is met as previously discussed with respect to the machine-readable storage of Claim 11 causing a machine to perform the method of Claim 6.

Claim 17 is met as previously discussed with respect to the machine-readable storage of Claim 11 causing a machine to perform the method of Claim 7.

Claim 18 is met as previously discussed with respect to the machine-readable storage of Claim 11 causing a machine to perform the method of Claim 8.

Claim 19 is met as previously discussed with respect to the machine-readable storage of Claim 11 causing a machine to perform the method of Claim 9.

Claim 20 is met as previously discussed with respect to the machine-readable storage of Claim 11 causing a machine to perform the method of Claim 10.

With respect to Claim 21, Shoff teaches a system for providing access to information related to a broadcast television program (as shown in Fig. 2 and described in Col. 4 Line 14—Col. 5 Line 60), the system comprising at least one processor that executes the method of Claim 1 (Processor 92 of viewer computing unit shown in Fig. 5

and described in Col. 8 Lines 4-51; with further reference to the method of Claim 1 addressed above).

Claim 22 is met as previously discussed with respect to the system of Claim 21 operating under the method of Claim 2.

Claim 23 is met as previously discussed with respect to the system of Claim 21 operating under the method of Claim 3.

Claim 24 is met as previously discussed with respect to the system of Claim 21 operating under the method of Claim 4.

Claim 25 is met as previously discussed with respect to the system of Claim 21 operating under the method of Claim 5.

Claim 26 is met as previously discussed with respect to the system of Claim 21 operating under the method of Claim 6.

Claim 27 is met as previously discussed with respect to the system of Claim 21 operating under the method of Claim 7.

Claim 28 is met as previously discussed with respect to the system of Claim 21 operating under the method of Claim 8.

Claim 29 is met as previously discussed with respect to the system of Claim 21 operating under the method of Claim 9.

Claim 30 is met as previously discussed with respect to the system of Claim 21 operating under the method of Claim 10.

With respect to Claim 31, Shoff teaches the system according to Claim 21 wherein said at least one processor is at least one of a media processing system

processor, a media management system processor, a computer processor, media exchange software processor, and a media peripheral processor (Processor 92 functions as a media management system processor, as disclosed in Col. 8 Lines 35-51).

(10) Response to Argument

The Examiner respectfully disagrees that the rejection should be reversed. Only those arguments having been raised are being considered and addressed in the Examiner's Answer. Any further arguments regarding other elements or limitations not specifically argued or any other reasoning regarding deficiencies in a prima facie case of obviousness that the Appellant could have made are considered by the Examiner as having been conceded by the Appellant for the basis of the decision of this appeal. They are not being addressed by the Examiner for the Board's consideration. Should the panel find that the Examiner's position/arguments or any aspect of the rejection is not sufficiently clear or a particular issue is of need of further explanation, it is respectfully requested that the case be remanded to the Examiner for further explanation prior to the rendering of a decision.¹

Discussion of Rejections of independent Claims 1, 11, and 21 under 35 USC 102(e) as being anticipated by Shoff.

Appellant presents that Shoff does not disclose or suggest the limitation of "the broadcast television program and said at least one synchronized functionality being of

¹ See 37 CFR 41.50(a)(1) and MPEP 1211.

the same format and for display on a television screen within a home" because "Shoff discloses that the Internet data (which the Examiner analogizes to Appellant's 'synchronized functionality') can be a Web page and can be combined with the video data to form a single signal" and "Shoff's supplemental information (e.g. Web page) is in hypertext format, which is obviously different from the format of the television video data being displayed in pane 16" (Brief² Page 8 and Shoff Col. 2 Lines 32-52 and Figs. 1, 8a-8c; with further reference to Col. 12 Lines 24-38). Appellant additionally summarizes that "the Examiner has also equated Appellant's 'synchronized functionality' with Shoff's 'target resource'" and "[a]s explained by Shoff, the 'target resource' contains digital data, which 'defines the supplemental content to enable viewer interactivity'" (Brief Page 9 and Shoff Col. 9 Line 66—Col. 10 Line 17).

The Examiner first notes that, only Shoff's "digital data" is used to address the claimed "synchronized functionality" and by no means has the Examiner equated Shoff's "Internet data" to the claimed "synchronized functionality" (Office Action³ Page 4). Additionally, (although not presented for appeal) the Examiner has cited Shoff's "supplemental content" in addressing Appellant's "supplemental information" as presented in Claims 7-9 (Office Action Page 7), where, according to Shoff, "supplemental content" can be "text, graphics, video, pictures, sound, or other multimedia types" (Col. 5 Lines 16-22) and can be constructed as a Hypertext file (Col. 5 Lines 23-60). The Examiner stresses the importance of the distinction between

² Revised Appeal Brief received September 21, 2009

³ Final Office Action mailed January 14, 2009

Shoff's "digital data" and Shoff's "supplemental content" (as Shoff describes in Col. 9 Lines 66—Col. 10 Line 58).

The Examiner agrees with Appellant regarding the function of Shoff's "digital data", namely that it "defines a display layout prescribing how the supplemental content and the video program are to appear, and defines timing information to synchronize presentation of the supplemental content with the video content program" (Brief Page 9). Regarding the transmission of the digital data, Shoff discloses:

"The video stream and supplemental content can be transmitted together, as a single signal, or separately. In the former implementation, the digital data is packaged with the video stream and transmitted as one signal from the headend. The viewer computing unit receives the single signal at tuner 98 and separates the digital data from the video signal (steps 172 and 174) [of Fig. 7]" (Col. 10 Lines 18-24).

Additionally, Shoff discloses (Col. 2 Lines 23-50) that Internet data (i.e. supplemental content) is combined with the video data to form a single signal and that the Internet data is transmitted during the vertical blank interval (VBI) between successive frames of the video data.

Regarding Appellant's Claim 1 limitation "the broadcast television program and said at least one synchronized functionality being of the same format and for display on a television screen within a home", it is the Examiner's position that Shoff's disclosure of digital data packaged with a video stream and transmitted as one signal from the headend addresses this limitation. In particular, Appellant's claims do not specify a particular format of broadcast television or synchronized functionality. For support of this particular limitation, Appellant has provided Page 12 Lines 4-5 of the Specification, which state:

The TV screen 106 of the media processing system 101 may provide a user with the capability to view broadcast media content and synchronized functionality 111.

The Examiner additionally submits Page 12 Lines 24-26 of the Specification as a description of the claimed "synchronized functionality", which state:

The synchronized functionality may provide the user or a subscriber with the capability to request supplemental information related to the media content associated with a particular media broadcast.

It is the Examiner's position that the claimed "same format" is dictated by the transmission medium in which the media content and synchronized functionality are received, in accordance with Element 111 of Figure 1, as described above. The Examiner submits that Shoff's transmission of digital data packaged with the video stream as one signal, which is received by a single tuner, is in accordance with this interpretation of Claim 1 (as shown by Shoff in Fig. 2 and described in Col. 4 Lines 35-65). Therefore, the Examiner submits that Shoff does in fact demonstrate "the broadcast television program and said at least one synchronized functionality being of the same format and for display on a television screen within a home" because Shoff's digital data is packaged with the video stream as one signal and transmitted from the headend for reception by a single television tuner.

Appellant additionally presents (Brief Pages 9-13) that Shoff does not disclose of suggest the Claim 1, 11, and 21 limitation "wherein said at least one synchronized functionality originates from the same broadcast provider location as the broadcast television program" because "Shoff's broadcast video signals are only being selectively

re-transmitted by the headend 22 [of Figure 2], since the broadcast signals originate from a satellite feed or a cable system feed" (Brief Pages 9-10).

The Examiner notes that Figure 2 of Shoff does not demonstrate supplying broadcast signals to Headend 22 from a satellite feed or a cable system feed. Figure 2 of Shoff demonstrates that Headend 22 contains a Continuous Media Server 42 supplying Video Programs 40 (as described in Col. 4 Lines 42—Col. 5 Line 5), however no satellite feed or cable system feed is shown for delivering the video programs to the headend. Appellant has not provided a prior art teaching or factual bases in supporting a conclusion that one of ordinary skill in the art would exclusively associate a cable headend as a "master facility for receiving... television signals" and selectively re-transmitting the signals to a viewer (Brief Page 10). Shoff additionally discloses in Col. 12 Lines 26-30, in reference to the digital data, that "the developer is empowered to create both the content and the presentation format of how the content and the broadcast program are displayed to the viewer." Shoff also states that "[t]he supplemental content can be developed and provided by the same provider that distributes the video content, or by an independent service provider" (Col. 3 Lines 10-13), where the digital data is packaged with the video content (as established above). Therefore, the Examiner submits that, as shown in Figure 2, it is reasonable to conclude that Shoff's Headend 22 is the point of origin for both the digital data (claimed synchronized functionality) and the video program (claimed broadcast television program).

Discussion of Rejections of dependent Claims 2, 12, and 22 under 35 USC 102(e) as being anticipated by Shoff.

Appellant presents that Shoff does not disclose or suggest the limitation of “associating said at least one synchronized functionality with the broadcast television program” because “Shoff’s ‘digital data’ of the target resource is not the actual supplemental information and it is not associated with the broadcast television program” (Brief Pages 13-14).

As presented above, the Examiner does not propose that Shoff’s “digital data” is actual supplemental information (as claimed in Claims 7-9) or actual supplemental content (as disclosed by Shoff). Additionally, as presented in addressing Claim 1, the Examiner submits that Shoff teaches the digital data is packaged with the video stream as one signal (Col. 10 Lines 18-24) and is therefore associated with the video stream. Therefore, the Examiner maintains that Shoff teaches the limitation of “associating said at least one synchronized functionality with the broadcast television program” as required by Claims 2, 12, and 22.

Discussion of Rejections of dependent Claims 3, 13, and 23 under 35 USC 102(e) as being anticipated by Shoff.

Appellant does not present additional arguments beyond those of Claims 1, 11, and 21, therefore the Examiner maintains that Claims 3, 13, and 23 have been reasonably addressed as established above.

Discussion of Rejections of dependent Claims 4, 14, and 24 under 35 USC 102(e) as being anticipated by Shoff.

Appellant presents that Shoff does not disclose or suggest the limitation of “broadcasting an indication of said at least one synchronized functionality along with the broadcast television program” because Shoff “does not disclose that an indication of the synchronized functionality is in fact broadcast along with the broadcast television program” (Brief Pages 14-15). Regarding the teachings of Shoff, Appellant additionally presents that “the program source and the supplemental content source are different” and “the headend is not an originating broadcast provider and it is not possible for an indication of available supplemental content... to be broadcast along with the broadcast television program” (Brief Pages 15-16).

The Examiner has previously presented (Office Action Page 3) that Shoff discloses “the presence of a target specification in the EPG data field 58 in association with the program is an indication that the program is interactive compatible and that there is supplemental content for the program” (Col. 9 Lines 1-5). Shoff additionally states that “[t]he viewer computing unit checks the appropriate channel and time slot of the EPG data structure 48 to determine if the program being carried on the selected channel at this time is interactive” (Col. 8 Line 64—Col. 9 Line 1). Appellant’s remaining arguments have been addressed above with reference to Claim 1. Therefore, the Examiner maintains that Shoff teaches the limitation of “broadcasting an indication of said at least one synchronized functionality along with the broadcast television program.”

Discussion of Rejections of dependent Claims 5, 15, and 25 under 35 USC 102(e) as being anticipated by Shoff.

Appellant does not present additional arguments beyond those of Claims 1, 11, and 21, therefore the Examiner maintains that Claims 5, 15, and 25 have been reasonably addressed as established above.

Discussion of Rejections of dependent Claims 6, 16, and 26 under 35 USC 102(e) as being anticipated by Shoff.

Appellant does not present additional arguments beyond those of Claims 1, 11, and 21, therefore the Examiner maintains that Claims 6, 16, and 26 have been reasonably addressed as established above.

Discussion of Rejections of dependent Claims 7, 17, and 27 under 35 USC 102(e) as being anticipated by Shoff.

Appellant does not present additional arguments beyond those of Claims 1, 11, and 21, therefore the Examiner maintains that Claims 7, 17, and 27 have been reasonably addressed as established above.

Discussion of Rejections of dependent Claims 8, 18, and 28 under 35 USC 102(e) as being anticipated by Shoff.

Appellant does not present additional arguments beyond those of Claims 1, 11, and 21, therefore the Examiner maintains that Claims 8, 18, and 28 have been reasonably addressed as established above.

Discussion of Rejections of dependent Claims 9, 19, and 29 under 35 USC 102(e) as being anticipated by Shoff.

Appellant does not present additional arguments beyond those of Claims 1, 11, and 21, therefore the Examiner maintains that Claims 8, 18, and 28 have been reasonably addressed as established above.

Discussion of Rejections of dependent Claims 9, 19, and 29 under 35 USC 102(e) as being anticipated by Shoff.

Appellant presents that Shoff does not disclose or suggest the limitation of “displaying information related to said performance of said at least a portion of said at least one synchronized functionality” because “Shoff still does not display any information relating to the actual performance of the synchronized functionality (e.g., the act of obtaining the supplemental content)” (Brief Pages 18-19).

The Examiner has previously presented (Office Action Page 7) that EPG 48 of Fig. 3, which is displayed to the user, indicates the existence and location of interactive content by way of Data Field 58 (as Shoff describes in Col. 4 Lines 35-42 and Col. 5 Line 61—Col. 6 Line 22). It is the Examiner’s position that the location of interactive content relates to the performance of the synchronized functionality because the information in Data Field 58 enables the supplemental content to be retrieved and presented with the video content. The Examiner additionally notes that the claim language “displaying information related to said performance of... synchronized functionality” does not actively require the display of “synchronized functionality”. Therefore, the Examiner maintains that Shoff teaches “displaying information related to

said performance of said at least a portion of said at least one synchronized functionality”.

Discussion of Rejections of dependent Claim 30 under 35 USC 102(e) as being anticipated by Shoff.

Appellant does not present additional arguments beyond those of Claims 1, 11, and 21, therefore the Examiner maintains that Claim 30 has been reasonably addressed as established above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Patrick A Ryan/
Examiner, Art Unit 2427

Conferees:

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421